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Application No. 10/767,194

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Docket No.: BAF-16802/29

REMARKS

By this amendment, claims 1 and 13 have been amended to better define the invention. Claims 7 and 8 have been amended to change their dependency; and claims 6, 16 and 21 have been canceled. Claims 3-4 and 9-12 have been withdrawn from consideration.

Claim 1 was rejected under 3 U.S.C. §102(e) over Zacouto ('495). Claim 1 has been changed to include the limitation of an endplate having a surface that is formed through separate components that are assembled within a disc space. This is neither taught nor suggested by Zacouto. In particular, "elements 30" are fixation members, and not endplates. Since prima facie anticipation has not been established with respect to claim 1, its dependent claims are allowable as well.

With regard to claims 18-21, Applicant respectfully requests where in all of the figures and three entire columns of Zacouto, one may find the limitations of the subject claims. It is Applicant's position that Zacouto neither teaches nor suggests the steps of independent claim 18.

Based upon the foregoing amendments and comments, Applicant believes all pending claims are in condition for allowance. Questions regarding this application may be directed to the undersigned attorney by telephone, facsimile or electronic mail.

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Respectfully submitted,

By 

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